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## Core Labour Rights: Promise and Peril

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## Core Labour Rights: Promise and Peril

### Abstract

The rush to core labour standards invites the response that other workers' concerns are not worthy of equal standing and advocacy.

### Keywords

labor rights, labor standards, International Labor Organization, ILO, human rights, wages

### Disciplines

Benefits and Compensation | Human Rights Law | International and Comparative Labor Relations

### Comments

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# Core labour rights: promise and peril

The rush to core labour standards invites the response that other workers' concerns are not worthy of equal standing and advocacy

**W**ORKERS' rights advocates are converging on the International Labour Organisation's 1998 declaration of 'core' labour standards as an authoritative statement of workers' rights in the global economy. The ILO set out four core rights: to organise and bargain collectively, and to be free of forced labour, child labour, and discrimination.

The promise of a labour rights core lies in its universality. Contending trade union, business, government and civil society forces engaged in the debate over trade and labour standards need a common goal for workers' rights to become part of the global economic agenda.

Here is where peril arises. The rush to core labour standards invites the logical response that other workers' concerns, most involving economic and social rights, are not worthy of equal standing and advocacy. Instead, these standards can vary based on economic circumstances and development strategies.

Labour rights advocates should not shrink the terrain for action by focusing only on the ILO's declaration of core standards. Advocates should expand the grounds for advocacy by insisting on a 'core-plus' or 'expanded core' covering a greater range of workers' vital interests, embracing economic and social rights.

## Business support for core labour standards

The international corporate community delivered business support for the ILO's declaration to stave off stronger action at the World Trade Organisation (WTO). As the US Council for International Business (the US employer delegation to the ILO) put it in a message to member companies, 'the Declaration is necessary for staving off pressure for the social clause... The goal of this initiative has been to place the ILO at the centre of the debate on linking worker rights with trade, thereby decreasing the pressure to use trade sanctions to enforce labour standards...'

The ILO declaration expressly repudiates any linkage to trade in the form of economic sanctions for violating core labour rights. The ILO 'stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up'. As long as the ILO forswears enforcement measures, corporate executives know they will never have to pay an economic price for violating workers' rights.

## Core and cost

Supporters of a narrow 'core' approach to workers' rights emphasise that these are not economic

and social rights that depend on a country's level of development and ability to pay. Even the poorest countries should be able to afford the core rights, the argument goes, so charges of protectionism – that labour standards' links to trade and investment are being imposed by developed countries to block imports from developing countries – are misplaced.

But the supposed bright line between no-cost, basic human rights standards for workers and cost-filled economic and social rights and benefits begins to blur up close. Freedom of association and the right to organise and bargain collectively are surely fundamental rights that must be protected in the international trading system, but they are not divorced from economic benefits. Higher wages are a primary goal of workers and their trade union negotiators.

Flying in the face of non-discrimination principles, the 'gender gap' in salaries between men and women workers is deeply entrenched in nearly every country's labour market. So are gaps affecting racial and ethnic minorities. Pregnancy testing, sexual and psychological pressure, forced overtime, wage bias and other discriminatory features of the 'global assembly line' afflict millions of young women workers in export processing zone factories around the world. Full compliance would have significant economic cost effects for countries and firms. It is a cost they should be made to pay.

Prison labour put at the disposal of private enterprises violates core labour standards, but it is growing in use around the globe, giving some enterprises pronounced cost advantages. Child labour, too, provides a clear cost advantage to employers who use it. For an economy as a whole widespread child labour ultimately retards economic growth and development because education and skills development are stunted. But countries and firms do not operate in an 'ultimately' time frame and prohibitions on child labour will raise their costs.

## 'Core-plus' and human rights

Core labour rights have cost dimensions. So be it; workers' rights advocates should not shrink from demanding that payment be made for social justice. At the same time, rights and protections seen as outside the 'core' because they carry economic costs have strong human rights dimensions. For example, why isn't workplace health and safety counted among core labour norms?

Similarly, disabled workers should have a fundamental right to social insurance-providing compensation for workplace injuries, illnesses and deaths. The same logic applies to unemployment insurance or severance pay for workers who are displaced by the 'creative destruction' of global

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trade and investment, and pensions for workers who reach old age.

Treatment of migrant workers is another issue of transcendent importance in the global economy, but migrant workers' rights are outside the international consensus on core labour rights. Migrant workers are moving by the millions through the global economy, almost all victimised by their vulnerable status. A global discourse on core labour standards is incomplete without treating migrant workers' rights.

### The wage question

As soon as wage issues are mentioned by workers' rights advocates, cries of 'protectionism' ring from developing country officials, corporate executives, international bankers, neoclassical economists and other critics charging that developed country trade unionists and their allies want a global minimum wage as a weapon to keep out products from Southern countries and preserve jobs for Northern workers.

In fact, most Northern labour rights activists are motivated by human rights concerns, not by protectionism. They know there cannot be a global minimum wage or, if there were, it would be so low as to be virtually meaningless.

Comparative advantage based on lower labour costs because a country has a lower level of development is something that the international community can accept. Indeed, trade unionists and workers' rights advocates in developed countries with a genuine internationalist perspective should accept it.

The key is whether, alongside such comparative advantage, workers in poorer countries have a voice in shaping development policy through a democratic political system and free trade unionism. If an undemocratic government deliberately represses workers' wages and benefits below levels warranted by their skills and productivity, or if any government - democratic or not - fails to act against companies gaining a competitive edge by wage suppression, the international community should be able to invoke a social dimension in trade agreements to halt such abuse.

Mexico is a case in point. In Mexico, a corporatist alliance between the ruling Institutional Revolutionary Party (PRI) and the officialista trade union movement held workers' wages below productivity gains for years. Many automobile assembly factories had US levels of productivity with wages less than one-tenth of US wage levels. In the maquiladora factory zones along the US-Mexico border, where thousands of factories employ more than a million workers, companies led by US multinational corporations openly collude to set matching wages in all the plants far below workers' productivity levels.

Low wages resulting from repression, collusion, and other deliberate measures are properly a target of human rights and labour rights advocates taking up social justice issues.

### 'Core-plus' precedents

Promoting a 'core-plus' or 'expanded-core' strategy for labour rights in global trade is not a new departure for the international community. If anything, the ILO's short core is the new wrinkle. Many international labour rights instruments take up issues beyond the ILO's narrow definition of core labour rights. Crafting a new, more comprehensive approach can build on these precedents rather than starting a daunting new agenda.

NAFTA's labour side agreement, the North

American Agreement on Labour Cooperation (NAALC) sets forth 11 labour principles as fundamental rights in regional trade arrangements. In addition to the ILO's core standards, the NAALC includes occupational health and safety, workers' compensation for injuries and illnesses, migrant workers' rights, and minimum wage enforcement. Some of the most important cases raised under the NAALC's complaint procedures have involved these latter 'core-plus' issues, treating, for example, health and safety concerns of Mexican auto parts workers and airline flight attendants, and abuses against migrant farmworkers in the Washington apple industry.

Besides core standards, the European Union's Community Charter of Fundamental Social Rights for Workers covers workplace health and safety, disability protection, social insurance, vocational training, freedom of movement across borders, and 'fair remuneration'. A new EU Charter of Fundamental Rights addresses core labour standards, but then goes on to define as 'fundamental' workers' rights to information and consultation on the job, free job placement service, just cause for discharge from employment, workplace health and safety, limits on working hours, paid vacations, maternity pay, workers' compensation, parental leave, housing assistance, health care and other 'rights, freedoms, and principles'.

Similarly, Mercosur's Social-Labour Declaration of 1998 addresses migrant workers' rights, labour-management dialogue, employment and unemployment, training, health and safety, labour inspection, social security and others. The recent US-Jordan free trade agreement contains a labour rights clause citing minimum wages, hours of work and health and safety as proper matters for enforcement through trade disciplines. In free trade agreements with Costa Rica and Chile, Canada adopted the NAALC's 11 labour principles as the focus of mutual obligations.

Even privately-sponsored codes of conduct go beyond the definition of core labour standards and may include health and safety, disability pay, harassment, corporal punishment, forced overtime, fair wages, severance pay and more.

### Conclusion

Labour rights supporters risk a grave loss of space, of range for advocacy and action, by conceding that core standards on organising and bargaining, child labour and discrimination are the sum and substance of workers' concerns in the global economy and that the ILO is the only proper forum for treating them.

This is not meant to diminish the importance of labour rights contained in the consensual core, nor to devalue the work of the ILO. The case here is for taking the ILO and its core labour standards as cornerstones, then extending core definitions and discourse in a wider approach reflecting the range of workers' interests in the global trading system.

Labour rights proponents should press for continued development and experimentation with a broad array of labour rights, including economic and social rights, in a multiplicity of forums like those just mentioned. Advocates should judge results after several years of experimentation with different labour rights instruments and mechanisms. Then it may be time for convergence toward a consensus definition of relevant labour rights and standards and the most effective institutions and procedures for protecting workers' rights in the global economy.

Comparative advantage based on lower labour costs is something that the international community can accept